SEP. 6.2005 5:29PM

NO.030 P.2

BOYCE & ISLEY, PLLC

ATTORNEYS AT LAW
LAWYERS WEEKLY BUILDING, SUITE 100
POST OFFICE BOX 1990
RALBIGH, NORTH CAROLINA 27602-1990

G. Eugene Boyce R. Daniel Boyce Philip R. Isley Laura Boyce Isley 107 Fayetteville Street Mall Raleigh, North Carolina 27601

Telephone: (919) 833-7373 Facsimile: (919) 833-7536

July 14, 2005

Mr. Eric D. Goulian Assistant U. S. Attorney 310 New Bern Avenue Suite 800 Raleigh, North Carolina 27601-1461

Dear Eric:

Enclosed please find our list of peanut farmers divided by state along with the Government's list. We have compared the two lists and totaled the number of farmers not found on the Government's list. Please review and verify the number of Plaintiffs not on the Government's list. The number of clients not found on the Government's list are set forth below; however some farmers have listed more than one farm.

- Texas-56
- Flordia-4
- South Carolina-1
- Virginia-42
- Alabama-10
- Georgia-47

Sincerely yours,

BOYCE & ISLEY, PLLC

R. Daniel Boyce

RDB/mw Enclosures



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| M.E. Walson Fams, his | Wild - Payminology & South Fauras, FN 5868 (State of Texas land) | FALLE INC | ALH K Inc. | Two W. Farms | | Wade Pernington & Sons Ferms, FR 5/21 | Wade Pernington & Sons Fams, FN 90 | Wade Pennington & Some Farms, FN 87 | | | CEC | SHOV Farms | | B & S Sharpora Famis Inc. | | | Victor St. | yrang Parity mm & Sons Farms, FN 1688 | Walls Bergindon & Sons Family FN 58 | 1_ | Wade Permagania Serial and | Some Farms By 2236 | Wade Pennington & Sons Famis, Fre 193 | DI 100 | TPFam | | Wade Pennington & Sons Farms, FN 4703 | COW VURRET LITTING # 327 | E PAGE | | Wade Pennington & Sons Fames, FN 178 | | | Wade Pennington & Sous Farms, FR 4889 | Koonpe Farms | Nonierus 18. | | Wade Pennington & Sons Farms, FN 5473 | Wade Pennington & Sons Farms, FN 2334 | 1839 | New 2677 2006 1890 | | | Grimshaw Farms | Wade Pennington & Suns Farms, FN 5056 | | | Farm # 455, 4688 | | | | |
| | 1 | 512 Salkirk Shreet C | 304 County Road 331, HC 4 Box 5004 | 304 County Road 331, HG 4 Box 500-81 | Post Office Box 233 | Post Office Box 476 | 512 Sallink Shreet C | 517 Salkirk Short C | | 1380 Private Road 1061 | | | Past Office Box 100 | | | | | 512 Separk autors C | | | | 512 Salkink Street C | | | Del Road | | | | | 5 | | 6717 BW 2214 | | | 512 Setwick Street C | | | | S12 Salark Street C | | | | 97 | | dia. | 512 Salkirk Street C | Mas | *************************************** | SA Egis Visit | | NC LUMB CE | |
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Page 1 Mr. Edwards | H. Damond | Page 1 Mr. Edwards | Edwards Alen
Eyerett Kenneth
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2108 Mineral Springs Road
4720 Aubumn Rd
Post Office Box 476
517 Joe Anderson Rd
6037 Jay's Way
2118 Lee Morris Road
3146 Darout Road
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| 21067 Peders Bridge Road 21067 Peders Bridge Road 21067 Peders Bridge Road 10018 Comains Wells | Post Office Box 322 | 907 Farest Lane | Ш | | 32053 Barries Church Circle | 30159 Stateswills room | | - | 1626 James River Jct. | 4/12 News run wing | 9407 Sussex Drive | Monroe Road | 29085 Bethany School Road | 1599 Hickory Hill Road | 35025 Burdebe Road | 34622 Stateswille Road | 32450 Sweampre Church Road | 500 Been Road | Past Office Bax 110 | 25408 Mill Run Road | 8518 Fire Tomer Road | 18211 Sedley Road | 9520 Lowground Road | 3248Z School Hause Road | 8244 Goodrich Lane | 1047 Bacons Castle Trial | 675 Description Road | 655 Deerfield Road | 10080 Pale Run Road | 9074 Blaunt's Corner Road | 3192 Becmand result | 33440 Stalesville Road | 19315 Courthouse Road | 10105 Bokbars Road | 4079 Stagles Lake rwan | 21067 Peters Bridge Road | 696 Cherry Grove Road N. | 14512 Sleepy Hollow Road | 89 Golden Hill Kosa | 1167 Hells Island Road | 2587 Beef Road | 847 Alien Town Road | SAFA Brink Bout | ane ane | 358 Hilliop Lane | 258 Hilliam ane |
| Yabe Yale Yale | Boykins Boykins | South Hi | Newsoms | Newsoms | Newsoms | Newsoms | Newsouns | Newsams | Emparia | Emparia | Chester Chester | Short Cree | - Franklin | Waverty | Franklin | New | Fia | Emponia | Emporia | Slony Creek | Dinwiddie | Sediey | Emporia | Franklin | Franklin | Sumy | Emporia | Emporia | Disputation | Smithfield | Petersburg | Eberon | Dimmidde | Storry Creek | Storily Creek | Finding | Sulfalk | Dinwiddle | Dinwiddie | Elbemin | Emporia | Emporia | Emporia | Skippers | Skippers | Skippers |
| | | Binquappram | | Ļ | | | Southhampton | Southampun | Greenswille | - | - | Xessers | Southhampton VA | Constant and | Southnandi | Southennon | Southhampton VA | Ш | - 1 | 4 | - | Southhampon | Greenswille | Sauthhampton | Southhampto | Isle of Wight | Greenswille | Greensville | Graenswille | Isle of Wight | Prince George | Suny | Curamania | | | Greenswile | Sussex | Dinwiddle | Dinwiddia | Suny | Greenswile | Greenswille | Greenswille | Greensville | | |
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| 23897 434-245-8820 23897 434-246-4247 23897 434-246-3488 23828 757-654-6569 | 23827 757-652-2900 23828 757-654-9777 | 23970 434 447-8044 | 23874 757-654-6580 | 23851 757-862-4682 | 23874 757-654-0936 | 23874 757-654-9723 | 23874 757-654-6539 | 23874 757-654-6400 | 7974 757-654-9723 | 47 434-634-635 | Z3B31 804-768-8685 | 23BB2 434-246-5801 | 51 757-562-5730 | 51 757-869-9141 | 23890 804 834 2184 | 23851 757-862-5832 | 73874 757-654-6758 | 6/ 757-562-5026 | 23847 252-637-1878 | 23844 757-653-9750 | 23841 804-458-7-67 | 23487 757-242-4504 | 18 757-552-6404 | 73B47 434-634-6B44 | 757-362-02-9 | 0 | 23883 757-357-2311 | 7 434 634 5039 | 7 434 348 0118 | 2 804-861-0587 | 23803 804-157-2368 | 8 757-264-3600 6 757-264-3600 | 23874 757-654-9558 | 1 804-469-3118 | 804-478-4173 | 434-634-00-co | 23897 434-246-4247 | 23432 757-238-2062 | 23841 804-4/8-4032 | 757-294-3815 | 23847 434-634-4236 | 23847 434-634-6004 23847 434-634-5163 | 2384/434-340-310/ | CORPERONO BY | 7387 4340 45407 CT 1875 | 7367434047001 |
| 804-731-5043 804-586-7528 804-691-3401 757-664-962 | 757-654-0005 | בל חרש לשל | | | 757-654-6653 | 101-201-0010 | 757 651 0 | | 757-651-9578 | 804-894-1282 | 434-634-4819 | | | 757-651-9750 | 757-647-9032 | | | | 2000 | 434-658-4113 | | 804-731-0302 | ב נגני יוד | | + | | 757-357-6159 | | *O+007 | 804-891-0813 | | 804-691-0755 | 757 651-81 | 804-731-0061 | 804-691-1351 | 804-479-498 | 804-080-7360 | 757-544-1836 | | 137-133 3355 1804 586-2400 | 767 737 9933 | 252-537-4147 | 100 | 434-634-4332 | 434-534-5367 | 434-634-0174 |

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| David David | V. Roll | Jefferson | Willam | James | James | Joseph | James | Matthew | AMS | Benjamin | Benjamin | Melwin | William | Thomas | Cimina | - Dawn | Dawid | Lilly | Jason | Jimmy | Gem | - C | Presion | Sandra | 7 200 | la la | Roger | Roger | Wayne | Richard | Calvin | Harold | Brian | 1 | | Lany | TI CALLET | Hannes | Drapes | Wiley | | John | Lance | F | William | Trailing of | Orthida & | Drew | Gregory |
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| Lee Farms | Lee Farms | | | | Spice activity | Impor Farme Inc | J & J Famus | | | | | | | Oak View Farm | | | | Omes Roads Farms | | | | | | | C.G. Glower Farms, Inc. | | | | | Glay I dailing | Contraction | | | | | Fedis Farms, Inc. | | | | | Sandy Grove Failing, III. | | Everett Farms | Old Hickory Farms, Inc. | Cay Cook management | Oak Game Tians | | Canada | Edwards Farms |
| 34059 Burnt Roed Road 1182 Newsome Lane 20099 SUSSEX Drive | 1182 Newsome Lana | 33272 Pinecrest Drive | Z7030 Old Gittler Bodeward | 14007 Prince George Dave | 586 Chestrol Farm | 2700B Little Norfolk Road | 29187 Porter House Road | 7821 Ruman nomiceand | 20070 Cabin Hom Road | 29436 Johnson Drive | 23116 Stokes Road | 23116 Stokes Road | Post Office 25 | 271 Ka Shakes Road | - 11 | 650b Houald Noad | 2513 Longstreen Laire | 5899 Holyaush Road | East Street | 1698 Fiddlers Road | 1600 Fiddlers Road | 1750 Zinn Chunch Road | 18032 Line Pine Kozo | 9045 Chevy Lane | 6205 Courthouse Road | 6035 Purdy Road | 14:19 Erunswick Avenue | 34460 Buint Reed Road | 2242/ Citum Resd Road | Post Office Box 403 | 34418 Burnt Reed Road | Post Office Bax 148 | Post Office Bax 128 | 15002 Phopois Road | 1570 Brine Road | 1570 Brine Road | 30346 Shilph Road | 30365 Picks Milwell 1995 | 18493 Cron Koad | Post Office Box 57 | | 4270 Purdy Road | 17413 Everen road | 26819 Courthouse Road | 18291 Concord Sapporty Road | 7031 E Colonial Trial | Post Office Box 176*** * | 29258 Little Texas Road | 29258 Little Texas Road |
| Emporia Wayedy | Empona | Boykins | Suffolk | | 2 2 | Windsor | Boykins | Sulfalk | Sumak | Concent | Yale | Yale | Jamatt | Yade | Emperia | Janat | Sugork | Simple Grove | Boynans | Emporia | Emparia | Emporia | Rock Hill | Carson | Church Ro | Carrswibe | Monia | Boywins | Boykins | Newsons | Boylans | Shorry Creek | Brandiville | Boyldins | Bowkins | Emponia | BoyAuns | Bayadns | Branchwile | Windsor | Boylans | Emporia | Emporia | Capron | Slomy Greek | Surry | Boynans | Brancavulle | Branchville |
| Greensville Sussex | 1 | 4 | Ш | e Southhampion | L | Southmentpun | Southhampton | Suffolk | Suffolk | O Commission of the Commission | Southinamoton | Sussen | Sussex | Sussex | Greensville | | Sundk | Surrok | Sign | Constitution | Creensville | Greenswille | | Southampton | d Chesapeane | Iste of Wight | Gneenswille | Southending | Southhampton | Southhampton | Southampton | County | | Southhampton | 園 | Greatswille | Southinguing | Southhampton | Southhampion | Southhampton VA | Southing was | Greenswile | Greenswilks | Custom | CHESSEX | Suny | 1dillipmi1 | | Southandan |
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United States Attorney Eastern District of North Carolina

FAX COVER

DATE:

September 6, 2005

FROM:

TO:

Eric D. Goulian U.S. Attorney's Office 310 New Bern Ave., Suite 800 Raleigh, NC 27601 919-856-4356 FAX 856-4487 Brenna 833-7536

Total Pages

(including cover sheet): _11_

Peanut litigation:

Dan's 7-14-05 letter to me



4:36PM

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U.S. Department of Justice

United States Attorney
Eastern District of North Carolina

Terry Sanford Federal Building 310 New Bern Avenus Suite 800 Raleigh, North Carolina 27601-1461 Talaphona (919) 856-4530 Criminal FAX (919) 856-4487 Civil FAX (919) 856-4821 www.usdoj.gov/usao/nca

September 6, 2005

Fax and First-Class Mail

R. Daniel Boyce Boyce & Isley P.O. Box 1990 Raleigh, North Carolina 27602-1990

Re: Peanut Crop Insurance Litigation

Dear Dan:

I am writing in response to your letter of July 14, 2005, concerning farmers on your list who do not appear on RMA's list. Please understand that RMA's list includes only those peanut farmers who (a) have farms within one of the seven federal districts where lawsuits were filed, and (b) were paid an indemnity for a peanut loss in 2002. If someone appears on your list but not on RMA's list, it is because that person's farm is not located in one of the seven federal districts, or because that person did not receive an indemnity for a peanut loss in 2002, or both.

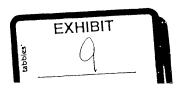
Feel free to give me a call if you have any questions.

Sincerely yours,

FRANK D. WHITNEY United States Attorney

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Eric D. Goulian Assistant United States Attorney



Filed 02/25/2003 Page 13 of 18

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BOYCE & ISLEY, PLLC

ATTORNEYS AT LAW
LAWYERS WEEKLY BUILDING, SUITE 100
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RALEIGH, NORTH CAROLINA 27602-1990

G. Eugenc Boyce R. Daniel Boyce Philip R. Isley Laura Boyce Islay 107 Fayetteville Street Mall Raleigh, North Carolina 27601

Telephone: (919) 833-7373 Facsimile: (919) 833-7536

July 30, 2003

VIA FACSIMILE (202) 514-8625 AND UNITED STATES MAIL

Ms. Jane W. Vanneman
Senior Trial Counsel, Commercial Litigation Branch
Civil Division, Department of Justice
Atm: Classification Unit, 8th Floor
1100 L Street, N.W.
Washington, DC 20530

Re: <u>Texas Peanut Farmers</u>, et al. v. The <u>United States</u> No. 03-445C (Judge Firestone)

Dear Jane:

We agree with Judge Firestone that it would be best for the Courts and all concerned to have these cases heard all in one place. Also, as Judge Firestone said, the Plaintiffs "need something in our hand" to assure our clients that this case will not be switched back and forth from jurisdiction to jurisdiction and thereby avoid an expeditious decision on the merits of the case and the ultimate issue of liability.

Judge Firestone's suggestion of a joint stipulation on jurisdiction seems to make sense. It may be that we can reach an agreement that any claims under the first filed Complaint are properly before that court and that court has jurisdiction over all the claims. We could further stipulate pursuant to 28 U.S.C. § 1407, assuming we have approval of the other Courts, to transfer all of the cases to one court for hearing on the same issues. Activity in the other cases could be stayed pending resolution of discovery and pretrial motions. The other U.S. Attorneys would likely agree, we believe. If that agreement can be reached, we could then take a dismissal in the Court of Federal Claims. We could have one trial court disposition one jury trial, if needed, and one appeal to one Circuit Court.

Given both of our summer vacation plans (I also will be out of the office quite extensively during August), we would appreciate your efforts this week in advising us of the Government's position on these matters and advising whether a stipulation can be reached.

Thank you for your prompt attention to this matter, and I look forward to hearing from you.

EXHIBIT

Sincerely yours,

BOYCE & ISLEY, PLLC

Dan Boyce (07) R. Daniel Boyce

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RDB.b.

CORRECTED BRIEF FOR DEFENDANT-APPELLEE

IN THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

04-5067

TEXAS PEANUT FARMERS, GEORGIA PEANUT FARMERS, ALABAMA PEANUT FARMERS, SOUTH CAROLINA PEANUT FARMERS, and FLORIDA PEANUT FARMERS,

Plaintaff-Appellants,

NOTHE UNITED STATES;

Defendant-Appelles

APPEAL FROM THE TIMITED STATES COURT OF FEDERAL CLAIMS NO 83 445 Judge Nazcy B Firescore: 1)

> PETER D. KEISLER Assistant Attorney General

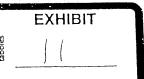
DAVIDYMO COHEN Difecto



emoratra meomsel Commercial Litigation Branch Department of Justice Attn: Classification Unit 8th Floor, 1100 L Street, N.W.

Washington, D.C. 20530 Tele: (202) 307-1011 Fax: (202) 514-8624

July 21, 2004



Attorneys for Defendant-Appellee

C. The Plaintiffs Named In The Court of Federal Claims Are Also Named In Suits Pending In Five District Courts

As we explained to the court, all of the plaintiffs named in the Complaint filed in the court were also specifically named in five district court complaints that appellants' counsel filed in Texas, South Carolina, Florida, Alabama, and Georgia, after the filing in the Court of Federal Claims.

Al49-226. Because the individually-named appellants are now named in a district court (although not necessarily in the district in which the farm is located), the court properly denied the motion to transfer.

D. It Is Not Practical To Transfer Appellants' Cases

Because The Court Would Be Required To Transfer

To The Districts In Which The Farms Are Located

The court recognized that it would not be practical to transfer the cases to the various districts in which the farms are located. Counsel for the farmers provided no information upon which to base a transfer to any particular district court in the five states.

Appellants contend that, for each named plaintiff, the counties with respect to the farms at issue were identified in the complaint. However, there are dozens of counties

¹³ Because the district court suits in the five states were filed in May 2003, after the February 2003 filing in the Court of Federal Claims, 28 U.S.C. §1500 does not apply. <u>See generally Loveladies Harbor v. United States</u>, 27 F.3d 1545 'Fed. Cir. 1994). See Part F3, below.

potentially involved, and fourteen possible districts within the five states (four districts in Texas; three districts each in Florida, Georgia, and Alabama; and one district in South Carolina, for a total of fourteen possible districts).

Appellants failed to identify, for each of the named plaintiffs, by counties, the fourteen districts, within the five states, in which the farms were located. See 28 U.S.C. Chapter 5: \$81 (Alabama), \$89 (Florida), \$90 (Georgia), \$121 (South Carolina), \$124 (Texas). A96-99.

Thus, it was not practical for the court to attempt to issue transfer orders to any one of the multiple district courts. See Part E.

E. It Is Too Late To Transfer The Case For The Named Plaintiffs Because Appellants Failed To Provide This Court With Information Sufficient To Transfer The Claims

Appellants failed to provide any information to the court as to the district in which the farms are located. Appellants fail to provide, on appeal, any information to this Court that might assist it in any possible transfer order. The burden that appellants sought to impose upon both courts — to match the dozens of named plaintiffs, with the counties in which the farms are located, with the appropriate district court, within one of five states — is too great to warrant any consideration of the transfer motion. In any event, appellants failed to file any motion to transfer in this court. Rule 27.

It would clearly be a burden for this Court, or for the

PLAINTIFF'S PROPOSED EFFICIENT PROCESS

- 1. Class Counsel filed Motion before JPML Panel that Court of Federal Claims case be identified as "potential tag along action" (Court of Federal Claims merely confirms status and requests ruling)
- 2. JPML issues "tag along action" transfer order of the Court of Federal Claims case (in its entirety) to EDNC pursuant to JPML Rule 7.4 and sends one file pursuant to JPML Rule 1.6
- 3. EDNC completes all coordinated/consolidated pretrial proceedings including determination of jurisdiction & venue issues of individual plaintiff cases and issues transfer orders of all plaintiff cases to the appropriate federal district courts pursuant to 28 USC 1631; 28 USC 1406; 28USC 1407 and 28 USC 1404.
- 4. 24 federal district courts receive identical transfer orders; enter final judgment and begin 24 identical class administrations unless Government agrees to consolidate as one class administration.

GOVERNMENT'S PROPOSAL AND RESULTING ADDITIONAL STEPS TO REACH SAME END RESULT

- 1. Court of Federal Claims transfers "some" cases to EDNC which requires determination of which cases go to EDNC and which cases may go elsewhere.
- 2. Court of Federal Claims requires "plaintiffs' counsel to identify those plaintiffs named in this action whose farms are not located in the specific judicial districts in the five states in which the cases were filed so that the Court of Federal Claims may transfer the cases for those named plaintiffs to the appropriate judicial districts in the district courts in the five states in which the farms are located."
- 3. Plaintiffs file Motion to Compel production of information including Governments' withheld information regarding the location of specific plaintiffs' farms to determine which districts are the appropriate federal districts for new lawsuits.
- 4. Government either provides or does not provide the information needed to determine the appropriate federal districts for each of Plaintiffs' claims.
- 5. Court of Federal Claims sorts out disputes as to which new federal district courts must be identified and sends as many as 14 separate transfer orders to 14 new separate federal district courts.
- 6. As many as 14 new federal cases are initiated in 14 new federal district courts
- 7. Plaintiffs file as many as 14 motions to transfer the cases in 14 new and different federal district courts requesting that the cases be designated "tag along actions" to be handled by JPML.

EXHIBIT Signal Control of the contro

- 8. Plaintiffs identify 14 new "tag along actions" and request JPML to certify 14 new cases as "tag along actions."
- 9. JPML certifies each of the 14 new federal cases as "tag along" cases and transfers them to the EDNC pursuant to rule 7.4. This also requires the transfer of 14 new files pursuant to JPML Rule 1.6.
- 10. After waiting for all these cases to reach it for _?_ months, EDNC accepts and enters into system as many as 14 new tag along cases for pretrial determination. (meanwhile other cases either disposed of or waiting for the 14 new cases to reach EDNC).
- 11. EDNC completes all coordinated/consolidated pretrial proceedings including determination of jurisdiction & venue issues of individual plaintiff cases and issues transfer orders of all plaintiff cases to the appropriate federal district courts pursuant to 28 USC 1631; 28 USC 1406; 28USC 1407 and 28 USC 1404.
- 12. 24 federal district courts receive identical transfer orders; enter final judgment and begin 24 identical class administrations unless Government agrees to consolidate as one class administration.